

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

-----  
In re:

Case No.: 00-42674

*Elaine Shelly,*

Chapter 13 Case

Debtor(s).  
-----

**TRUSTEE'S RESPONSE TO DEBTOR'S MOTION TO VACATE ORDER OF  
DISMISSAL**

TO: All parties in interest pursuant to Local Rule 9013-3.

1. Jasmine Z. Keller, Chapter 13 Trustee (the "Trustee"), by and through her undersigned counsel, makes the following response to the debtor's motion to vacate order of dismissal (the "Motion").

2. The court will hold a hearing on the Motion at 9:30 a.m. on October 20, 2004, in Courtroom No. 8 West, United States Courthouse, 300 South 4<sup>th</sup> Street, Minneapolis, Minnesota.

3. As of October 7, 2004, the debtor has paid the Trustee a total of \$5,250.

4. The debtor is delinquent in payments to the Trustee in the amount of \$220, through the month of September 2004 only. There is a "cure order" that was entered into prior to the dismissal of the debtor's case, which addresses the debtor's delinquency and sets up a structured program for the debtor to become current in payments to the Trustee.

5. *Assuming the dismissal is vacated, the debtor and counsel are both placed on notice that the Trustee will send the debtor a 10-day written notice of default immediately upon the vacation of the dismissal of the case. The debtor will have 10 days from the date of that letter to cure the default under the cure order, or the case will once again be dismissed.*

6. FRBP 9024 incorporates by reference FRCP 60, with exceptions not relevant here. FRCP 60(b) allows a court to grant relief from an order or judgment on the grounds of mistake, inadvertence, or excusable neglect, among other things.

7. The Trustee's undersigned counsel has reviewed the Motion and accepts the debtor's contention that adequate grounds for relief from the order of dismissal are made out.

Based on the foregoing, **the Trustee does not oppose the court's granting the relief requested in the Motion.**

Jasmine Z. Keller, Chapter 13 Trustee

Dated: October 7, 2004

Signed: /e/ Thomas E. Johnson  
Thomas E. Johnson, ID # 52000  
Margaret H. Culp, ID # 180609  
Counsel for Chapter 13 Trustee  
310 Plymouth Building  
12 South 6th Street  
Minneapolis, MN 55402  
(612) 338-7591

**VERIFICATION**

I, Thomas E. Johnson, employed by Jasmine Z. Keller, the Chapter 13 Trustee, declare under penalty of perjury that the foregoing is true and correct.

Executed on: October 7, 2004

Signed: /e/ Thomas E. Johnson

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

-----  
In re:

Case No.: 00-42674

*Elaine Shelly,*

Chapter 13 Case

Debtor(s).  
-----

**UNSWORN DECLARATION FOR PROOF OF SERVICE**

I, Thomas E. Johnson, employed by Jasmine Z. Keller, Chapter 13 Trustee, declare that on October 7, 2004, I served Trustee's Response to Motion to Vacate Order of Dismissal on the individual(s) listed below, in the manner described:

**By e-mail:**

United States Trustee  
1015 United States Courthouse  
300 South 4<sup>th</sup> Street  
Minneapolis, MN 55415

**By first class U.S. mail, postage prepaid:**

Elaine Shelly  
4833 Thomas Boulevard  
Geneva, OH 44041

American Express Travel Related Svcs. Co.  
c/o Becket & Lee, LLP  
PO Box 3001  
Malvern, PA 19355-0701

**By delivery:**

Ian T. Ball, Esq.  
Attorney at Law  
326 Plymouth Building  
Minneapolis, MN 55402

And I declare, under penalty of perjury, that the foregoing is true and correct.

Executed: October 7, 2004

/e/ Thomas E. Johnson